Anarchy, State and the Political Conception of Justice

Martin Jacobson
Master level thesis
Fall 2018
Supervisor: Erik Carlson
1. Introduction ................................................................. 3
2. Background ................................................................. 3
   2.1. Liberal Egalitarianism .................................................. 3
   2.2. The Cosmopolitan and Political Conceptions of Justice ...... 6
   2.3. Anarchy and Libertarianism ......................................... 9
3. The Argument from Anarchy ........................................ 11
   3.1. The Counterargument that Ought Implies Can ............... 13
   3.2. The Counterargument from Coercion ........................... 15
   3.3. The Counterargument from Humanitarian Duties .......... 18
4. Summary and Conclusions ........................................... 20
   References ..................................................................... 22
1. Introduction

Political theorists disagree on the origin of justice. According to the cosmopolitan conception of justice, duties of justice are pre-political and universal. According to the political conception of justice, on the other hand, full duties of justice arise within and only within the context of a political community. Which one of these conceptions one adopts will have a comprehensive impact on ethical issues concerning global justice, such as migration ethics and foreign assistance.

In this paper I raise a challenge to the political conception of justice. I argue that it is problematic, since it cannot be applied in cases of anarchy. Since anarchic societies are not politically organized, the political conception implies that they are not bound by full duties of justice. Thus, the political conception is unable to criticize some rival theories of justice, such as anarchistic libertarianism, for being unjust. Reversely, if one does find anarchic societies unjust, this intuition speaks against the political conception of justice, but in favor of the cosmopolitan conception.

I illustrate my argument by applying it in the case of liberal egalitarianism. Liberal egalitarians hold that we have a duty of justice to ensure that those who are worst off are as well off as possible. But liberal egalitarians disagree on whether these redistributive duties are pre-political and cosmopolitan, and thus hold globally, or whether they are political, and consequently only arise and hold within politically organized communities.

The paper is divided into four parts, of which this introduction is the first. The second part contains the theoretical background for my analysis. Essentially, it outlines liberal egalitarianism, the political and cosmopolitan conceptions of justice, and the notions of anarchy and libertarianism. The third section provides the main argument of the paper and three counterarguments against it. In the fourth and final section I summarize the paper and its conclusions.

2. Background

2.1. Liberal Egalitarianism

Much of the contemporary discussion of liberal egalitarianism can be traced back to John Rawls’ A Theory of Justice (1971). I will present liberal egalitarianism in more detail by first
outlining Rawls’ moral theory and argument, and then discuss how others have responded to and developed it.

Rawls draws on a long tradition of contractualist philosophers, according to which we are obliged to obey the commands of a state if and only if we could reasonably consent to this governance. This obligation does not rely on our explicit, real-world consent, but rather on the consent we would have given, or would have had good reason to give, if we were in an imagined pre-political “state of nature” or “original position”.

However, Rawls observes that people deliberating in the original position will have very unequal prerequisites, some of them being naturally healthy, strong and talented, while others are not. There would be little incentive for those who know that they are naturally gifted to aid those who are not. But this seems unfair, as these qualities have been distributed by mere chance, and consequently are undeserved. Unlike previous contractualist thinkers, Rawls therefore argues that people in the original position should be stripped of any information about their own personal features, or in Rawls’ own terms, cloaked behind a “veil of ignorance”. Thus, the people in the original position will not know what lots they will draw in the “birth lottery”, and will consequently not be biased towards any particular characteristics. (ibid., 136-7)

Rawls argues that people behind the veil of ignorance would not try to maximize their expected future happiness, i.e. would not opt for a utilitarian society, as that would risk their individual happiness being sacrificed for the greater happiness of others. As we only have one life, we don’t want to risk it being wasted. Too much is at stake to gamble (ibid., 156). Neither would they opt for a strictly equal society, since it would be reasonable for everyone to accept those inequalities which benefit everyone, including those who are worst off. Rather than trying to maximize their expected future well-being, people would try to minimize the badness of a bad outcome. Thus, they would follow a “maximin” strategy and aim to make the worst possible outcome as good as possible. (ibid., 151-3)

More specifically Rawls argues that people would agree to strong protection of individual rights and liberties, for example implementing rule of law, equal access to the political process, and legally protected freedom of religion and freedom of speech etc. Secondly, people would make sure that all public offices are open and equally accessible to everyone, and only tolerate economic and social inequalities as long as these are to the benefit of those
who are worst off. Thereby, people will minimize the possible harm in being born untalented or ill. In other words, they would create a liberal egalitarian society. (ibid., 302-3)

Liberal egalitarians disagree is in what respect people should be made equal. What is the correct equalisandum? One straightforward position is that we ought to be equal in our material recourses (Dworkin 1981, 283). Some have however objected that our material recourses are not what we ultimately care about. Resources are only means to those further ends which we value for their own sake, such as welfare. Assume that you, due to reasons outside of your control, require a lot of resources to be happy while I only require a few resources to be happy. If we are granted the same amount of resources, I will be made much better off than you are, due to reasons which are outside of our control. This seems unfair, and some have therefore argued that we ought to make people equal in welfare, rather than resources (Cohen 1989, 916-7).

Some deny that people in the original position would follow a maximin strategy. Sufficientarians concede that people would ensure that no-one is too badly off, for example that no-one lives below some poverty line. However, once everyone is above this threshold many different distributions are acceptable, for example those which maximize total welfare (Crisp 2003, 758). According to the prioritarian position, on the other hand, people would attribute decreasing marginal utility to benefits. Benefiting people matters more, the worse off they are. Thus, it will always be better to give the same unit of benefit to one who is worse off than to one who is better off. However, in some cases it will be better to grant a larger benefit to someone who is better off, than a smaller benefit to someone who is worse off (Parfit 1997, 213).

While all these principles of redistribution could be considered liberal egalitarian in some broad sense, and while my argument applies to all these principles of redistribution, I exemplify my argument with Rawls’ maximin principle, according to which we ought to make those worst off as well off as possible. For the sake of my paper, it does not matter whether we interpret “better” and “worse off” in terms of material resources or welfare. Thus, I use the terms “egalitarian” and “liberal egalitarian” to refer to the maximin position exclusively.

---

1 The equalisandum Cohen (1989) defends, “access to advantage” is not purely based on welfare, but on a combination of resources and welfare. Another notable equalisandum is Rawls' “primary social goods” (1971, 92).
2.2 The Cosmopolitan and Political Conceptions of Justice

In this section I outline the distinction between the cosmopolitan and political conceptions of justice. The two conceptions disagree on the origin of justice, but they also generate different positions on normative issues surrounding global justice. While the conceptions are independent of any particular substantial theory of justice, such as liberal egalitarianism, libertarianism or utilitarianism, I exemplify them with the case of liberal egalitarianism. I do so, since most of the debate between cosmopolitans and defenders of the political conception has been a debate between liberal egalitarians. However, the distinction can also be applied to other theories of justice.²

According to the cosmopolitan conception of justice, justice is a pre-political and universal value. As justice is prior to any political associations, people would owe the same duties of redistribution in a state of nature as they do today. Since duties of justice are pre-political their scope is also independent of political boundaries. According to liberal egalitarian cosmopolitanism, our duty is consequently to ensure that the globally worst off are as well off as possible. A state which prioritizes the domestic worse off at the cost of the globally worse off is thus acting unfairly, and unjustly.³

Liberal egalitarian cosmopolitans can also justify their view with the argument that nationality, or citizenship status, is undeserved. Citizenship is usually granted on basis of the citizenship of the parents or on the location of birth, neither of which are under the control of the individual. Citizenship is thus, like talent or religious affiliation, one of those features which are undeserved, which should be cloaked behind the veil of ignorance. And behind the veil of ignorance no one would accept global inequalities, unless those were to the benefit of the globally worst off. (Pogge 1989, 246-7)

² For example, most utilitarians adopt a cosmopolitan position, according to which everyone, regardless of citizenship “count for one, nobody for more than one” (Dictum attributed to Jeremy Bentham in (Mill 2009, 112). For an example of utilitarian cosmopolitanism, see (Singer 2002). But in theory one could also combine utilitarianism with the political conception of justice. This would produce the view that states ought to maximize domestic pleasure over pain balance, but to my knowledge no-one defends this view.

³ The fact that cosmopolitan duties are pre-political does not necessarily imply that they are prior to any interaction at all. Cosmopolitans could either argue that egalitarian duties are independent of any associations, or founded on some non-political, global association. An example of a non-political global association would be mutually beneficial international trade (Beitz 1979, 146-53). Both these conceptions generate the same position, that liberal egalitarian duties are cosmopolitan and would arise even in anarchical societies. Therefore, for the purpose of this paper, I will treat them as one and the same conception. Notable defenders of the cosmopolitan conception include Pogge (1989 and 2008), Beitz (1979) and Moellendorf (2002).
According to the political conception of justice, on the other hand, full duties of justice arise within and only within political communities. This does not entail that pre-political societies are entirely amoral. Defenders of the political conception of justice may for example concede that all persons have a pre-political, moral right to autonomy. However, what demands this duty puts on others vary by circumstance. On a pre-political, universal level, people owe each other humanitarian duties to make sure that no one is destitute or oppressed. We have a humanitarian duty to e.g. send food to the starving, even if these are on the other side of the world. However, our humanitarian duty is only to make everyone adequately autonomous, not to make everyone as autonomous as possible. Thus, when no one is destitute, we do not owe a general duty to e.g. make foreigners as well off as possible. Our humanitarian duties are in other words strictly sufficientarian. (Blake 2001, 266-71)  

Aside from our humanitarian duties, states owe “civic” duties to their citizens. States are per definition coercive, and coercion is a *pro tanto* illegitimate violation of autonomy. State coercion thus demands some sort of justification to be legitimate. One such justification would be that the coerced individual consents to be coerced. Voluntary coercion, we might say, is not coercion at all. But this seems unhelpful. What if a criminal does not voluntarily submit to being coercively punished? The solution to this issue is that coercion does not require actual explicit consent. Rather, it demands that it would be rational for the criminal to agree to the coercion, if she was judging the situation impartially. Consequently, the state has a civic duty to ensure that everyone who is subject to state coercion should be able to rationally consent to the government in some idealized original position. (ibid., 272-4)  

Liberal egalitarians argue that people, in such an original position, would only give rational and impartial consent to a political system which ensured that the worst off were as well off as possible. Consequently, they argue that the civic duties states owe their citizens include a duty of egalitarian redistribution. Thus, liberal egalitarian redistribution is a mechanism in order to legitimize state coercion, and not a pre-political duty. States consequentially do not owe duties of redistribution to everyone, but only to those who they coerce, which mean all and only their citizens. (ibid., 282-4)  

---  

4 While the political conception is compatible with humanitarian duties, it does not necessarily entail them. Defenders of the political conception could, in other words, deny the existence of humanitarian duties. In this paper I will discuss the version of the political conception which also includes humanitarian duties. I do so, because I consider it more plausible, but also because it is more representative. However, the arguments I present in this paper apply to the political conception, regardless whether it is paired with humanitarian duties or not. My outline of the political conception is heavily influenced by Blake (2001). Other notable defenders of the conception include Rawls (1999), Dworkin (2000), Miller (1998) and Nagel (2005), who coined the term.
Thus, the political conception combines a weaker, sufficentarian, global, “humanitarian” duty of redistribution with a set of stronger, domestic, “civic” duties. While different substantial theories of justice disagree on the content of these civic duties, the liberal egalitarian version of the political conception hold that they include a duty of egalitarian redistribution.

The difference between the two conceptions of justice can be illustrated by the fictional states Borduria and Syldavia. Separated from each other by a mountain range, they do not know about each other and cannot interact. Over the centuries, Borduria’s rich deposits of natural resources and technological achievements help it develop a thriving economy with high standards of living. Syldavia experiences less development, but at least it produces enough to feed and clothe all its citizens, bringing them up to an acceptable standard of living. One day Bordurian explorers find a passage through the mountains and discover Syldavia at the other end. Soon the two nations develop diplomatic relations and set up mutually beneficial trade arrangements. (ibid., 290)

Would the Bordurians in these circumstances owe their Syldavian neighbors egalitarian duties of justice? Is the Bordurian state obliged to create an economic system which benefits the worst off overall, i.e. the worst off Syldavian, or are the Bordurians obliged to create the economic system which is to the greatest benefit to the worst off domestic Bordurians? According to the cosmopolitan conception of justice, their obligations are to the worst off overall, but according to the political conception of justice their duties are owed to the domestic worst off. (ibid., 290-3)

While I have described the cosmopolitan and political conceptions as abstract theories about justice, one can also see how they could translate into practical politics. The cosmopolitan conception could be used to justify radical reforms, such as an open borders migration policy, significantly increased foreign aid, interventionist foreign policy, and, in the long run, the implementation of a world state. The political conception, on the other hand, seems more apt to justify the status quo of state sovereignty and self-determination.

It is important to see that the liberal egalitarian conceptions and their respective positions concerning global justice may come apart. For example, it may be the case that a division of the world into sovereign states, all responsible for their respective citizens, is the best way of making the global worst off as well off as possible. If so, the cosmopolitan conception would imply that the world ought to be divided into separate sovereign states (Goodin 1998, 678-83). It would, for all practical purposes, collapse into the political position. Similarly, in the
case of a world government the political conception would imply that the state owes redistributive duties to the globally worst off. It would, for all practical purposes, collapse into the cosmopolitan position. As the most interesting consequence of the conceptions of justice is their different positions on global justice, I will treat them as justifications for their respective positions, rather than different justifications for the same position. In other words, if the political conception would collapse into the cosmopolitan position, or vice versa, I would consider it a failure of the collapsing conception.

2.3 Anarchy and Libertarianism

A society is anarchical, as I will use the term, if it is not governed by a state. This raises the further question of what a state is. One of the most influential definitions of a state is that of Max Weber, who defined it as “a human community that (successfully) claims the monopoly of the legitimate use of physical force within a given territory” (Weber 1946, 4, italics removed). A necessary feature of a state is thus its usage of physical force, or as I will call it, coercion.

The coercive nature of states can help us understand why some oppose their existence. Consider the pacifist position, according to which all usage of coercion is wrong. Most people have a strong aversion against violence, and pacifists like Leo Tolstoy and Mahatma Gandhi are widely admired. But if all coercion is illegitimate, and a necessary feature of states is the use of coercion, states are also necessarily illegitimate. Pacifism can thus be used as a justification for anarchism. (E.g. Tolstoy 2005, Ch. X)

However, pacifism faces a problem in non-compliance. Even a society which agrees that coercion is objectionable must somehow handle those immoral people who exercise it anyway. The pacifist position concedes that people may resist with non-coercive methods, but it limits their methods of resistance to non-violent means. This seems very demanding. If someone tries to assault me without provocation, I seem to have a right to defend myself. Coercion seems justifiable when used in the defense of oneself or of others.

This brings us to libertarianism. Libertarianism is a broad church of positions with much internal disagreement. What makes all these positions libertarian is that they all adhere to the non-aggression principle – according to which aggressive coercion is unjustified, or, in other
words, coercion is only justified in defense.\(^5\) This position preserves the pacifist intuition that violence is essentially wrong, but it is better equipped to handle cases of non-compliance. Notice however that the pacifist utopia, in which no-one uses coercion, and the libertarian utopia, in which no-one uses aggressive coercion, perfectly coincide. They only differ in their reaction to cases of non-compliance.

While all libertarians accept the non-aggression principle, they disagree on several issues creating a plethora of different libertarian positions. For example, libertarians disagree on whether states are morally permissible, or whether libertarianism, like pacifism, warrants anarchy. Since libertarianism is opposed to all aggressive coercion, it is also opposed to any state coercion which cannot be considered defensive. The question is thus whether it is possible and desirable to organize a state using only defensive coercion. Some “minarchist” libertarians hold that such minimal states are possible and justifiable (e.g. Nozick 1974, 149), or that states are a necessary evil, while anarchic libertarians deny this. Anarcho-capitalists, for example, argue that collective defense should be provided by privately funded competitors, competing on a free market (Rothbard 1978, 267-81).

Another issue dividing libertarians is that of legitimate ownership of external resources. Libertarians agree that the owner of an object has a right to compensation if her property is stolen or damaged. They also agree that the owner of an object has the right to freely transfer her ownership rights to someone else, as a gift or as a trade agreement. But a full account of libertarianism must also provide some principle of how legitimate ownership of previously unowned resources can arise in the first place. (Nozick 1974, 150-3)

Several such principles of original acquisition have been suggested, creating a multitude of different libertarian positions. These can broadly be divided into right-libertarians, who argue that resources are originally unowned, and that someone therefore unilaterally can acquire an un-proportional amount of resources, and left-libertarians, who argue that resources originally belong to everyone in some egalitarian manner, and therefore deny that someone may unilaterally acquire an un-proportional amount of resources (Vallentyne and van der Vossen 2018). In this paper I will only discuss two principles of original acquisition. First is the right-libertarian “homesteading” principle, advocated by many anarcho-capitalists, according to

\(^5\) Libertarianism is sometimes defined not in terms of non-aggression, but in self-ownership (e.g Vallentyne and van der Vossen (2018)). For all practical purposes, I see the two as co-extensional. If I cannot aggress against you, I cannot violate your self-ownership, and if I cannot violate your self-ownership, I cannot aggress against you. I use the non-aggression principle rather than self-ownership as the central tenet of libertarianism, as I find the non-aggression principle clearer and more intuitively attractive.
which someone can acquire a previously un-owned resource by “mixing their labor” with it, i.e. by using it (Rothbard 1978, 37-8).

Second is the left-libertarian geolibertarian principle, according to which everyone has an equal claim to these non-privately-owned resources, which should consequently be distributed on a per capita basis. Since resources are rarely easily divisible into per capita shares, the geolibertarian principle is difficult to implement in a straightforward manner. One approximation would be to levy a “single tax” on the economic rent of “land”, a catch-all term for all naturally occurring resources. The yield from this tax could then be distributed equally, as a form of universal basic income or citizens’ dividend, thus ensuring that everyone receives their fair share of the land’s value. As this “tax” is a redistribution of resources to their legitimate owners, similarly to how a thief must compensate her victim, the tax is not a form of aggression and thus fully compatible with libertarianism. (George 1920, Ch. VI.2., Steiner 1994, 268-72)

3. The Argument from Anarchy

This section contains the main argument of my paper. I argue that the political conception is inapplicable in cases of anarchy and that this is a problem for the view, before considering three counterarguments to my argument. But before I get into the arguments, I will briefly recap the main points of the previous sections.

According to the cosmopolitan conception of justice, duties of justice are pre-political and universal. According to the political conception of justice full duties of justice arise within and only within political communities. As these conceptions leave it an open question what our duties of justice are, I exemplify them with the substantial theory of justice liberal egalitarianism. According to liberal egalitarianism our duty of justice is to ensure that those who are worst off are as well off as possible. Thus, egalitarian cosmopolitans claim that we owe a duty to ensure that the globally worst off are as well off as possible. Egalitarian defenders of the political conception claim that states owe a duty to ensure that their worst off citizens are as well off as possible. While states may owe humanitarian duties to help destitute people abroad, they do not have a duty to ensure that the worst off foreigners are as well off as possible.
I have assumed that coercion is a necessary feature of a state and defined a society in which there is no state as anarchical. I have defined any position which accepts the non-aggression principle, i.e. the view that coercion may only be used in defense, as libertarian. Within libertarianism there are several sub-divisions, divided by e.g. their view of original acquisition of resources. Two examples of such views are the homesteading view, according to which we can acquire previously unowned things by using them, and geolibertarianism, according to which everyone has a claim to their per capita share of the value of the world’s original resources.

My challenge to the political conception of liberal egalitarianism is this: if liberal egalitarian obligations only arise in communities featuring pervasive coercion, and anarchical societies don’t feature pervasive coercion, liberal egalitarian obligations do not arise within anarchical societies. Or, put in another way: One could think of anarchy, not as reducing the number of sovereign states to zero, but as increasing the number of sovereign states to one per person. Since the political conception denies that members of different states owe liberal egalitarian obligations to each other, the political conception must also deny that members of anarchical societies owe liberal egalitarian obligations to each other.

Why is this a problem for the political conception liberal egalitarianism? One reason is that some forms of anarchism, such as libertarian anarchism, are rival theories of justice to liberal egalitarianism. Thus, my argument would render liberal egalitarian defenders of the political conception unable to criticize rival theories of justice for being unjust. This is a shortcoming of a theory of justice, and speaks against the political conception of liberal egalitarianism. But it can also be used to defend libertarian anarchism from liberal egalitarian critique. Reversely, if we believe that inegalitarian anarchical societies are unjust, the political conception is unable to explain this intuition. Since the cosmopolitan conception can explain this intuition, it speaks against the political conception and in favor of the cosmopolitan conception of justice.

As analogous arguments can be made for any other substantial theory of justice that is paired with the political conception, my argument does not only undermine the political conception of liberal egalitarianism, but the political conception of justice as a whole.

In the rest of this section I consider three possible counterarguments a defender of the political conception of liberal egalitarianism could make against my argument. The first counterargument is that no one in an anarchic society could fulfill egalitarian duties, and that
we therefore shouldn’t be surprised that no such egalitarian duties arise. The second argument is that societies without coercion are unfeasible, and therefore cannot be used as legitimate counterexamples. The third argument is that the political conception of justice, aside from civic duties to co-citizens, also warrants humanitarian duties to the destitute globally. As these humanitarian duties are pre-political anarchical societies are also bound by them, but without political organization they will be unable to live up to them.

3.1 The Counterargument that Ought Implies Can

According to my argument, it is a problem for the political conception that there are no egalitarian duties in anarchic societies. A defender of the political conception could respond that we should not be surprised that no such duties arise, as there is no one in an anarchic society who would be able to satisfy them. And if someone ought to do something, they must also be able to do it.

However, the premise that no one can satisfy this (potential) egalitarian duty seems hasty. Perhaps some person in the anarchic society is extremely wealthy, and consequently able to make everyone equally well off by redistributing her wealth. To some degree everyone (except the person who is worst off) can make society marginally more equal, by donating some of their wealth to someone who is worse off than themselves. Thus, there seem to be a lot of people who, in some sense, could act on egalitarian duties.

The defender of the political conception can refine their argument by claiming that states, rather than individuals, are the only proper bearers of egalitarian duties. And in the anarchical society there certainly are no states. Thus, no one in the anarchical society can have egalitarian duties. This response raises the difficult issue of collective agency, which exceeds the scope of this paper. However, while there is no collective state agent, there is a collective group of people in the anarchical society. This collective, and the individuals constituting it, can form into a state. Does this anarchical society, and the individuals in it, have a duty to form a state, and thus give rise to liberal egalitarian duties?

Such a “unification duty” must either be political, i.e. arise within and only within a coercively enforced state, or pre-political. If it was political it would always be fulfilled by societies which are politically organized, but never arise in the first place in anarchical societies. Such a political unification duty would thus never have any effect, making it
practically pointless. The unification duty must consequently be pre-political. I argued that the relationships between members of anarchical societies are analogous to the relationships between states in our current global system. Thus, any unification duty which applies to the anarchic society will also apply to our current states. Such a pre-political unification duty would consequently oblige our currently existing states to form a world-government. But within such a world-government our liberal egalitarian duties would hold globally. The political conception would thus, for all practical purposes, collapse into the cosmopolitan position. Consequently, a defender of the political conception cannot argue that the members of the anarchical society are under such a unification duty.

Thus, the defender of the political conception cannot blame any particular agent in the anarchical society, collective or individual, for acting unjustly. But perhaps the defender could maintain that inegalitarian anarchical societies are unfair, but that no one is obliged to resolve this unfairness. For example, they could argue that actions which reduce the level of inequality in anarchical societies are good but supererogatory. However, such a position seems to have lost something essential to liberal egalitarianism. What distinguished the liberal egalitarian from other political philosophies is the claim that we have a duty to redistribute resources to those who are badly off. Not merely that it would be a good thing to do. A libertarian could agree that actions reducing inequality are good but supererogatory, without contradicting her libertarianism or committing herself to liberal egalitarianism.

Finally, there are two problems with the counterargument that ought implies can itself. First, the argument seems to be at odds with the very principle it is supposed to defend. The political conception concedes that there are some pre-political redistributive duties, namely humanitarian duties. Thus, it also concedes that we can owe some duties of redistribution across state boundaries, in the absence of any joint state organization, thereby contradicting the argument. Put in another way, the counterargument could overgeneralize and lead to the conclusion that we cannot have any pre-political humanitarian duties, thus making it incompatible with the political conception. In order not to be self-defeating, defenders of the political conception must provide some explanation of why civic duties are impossible in the absence of states, while humanitarian duties are not.

Secondly, the counterargument doesn’t really get to the heart of my argument. Even if it could give some account of why no liberal egalitarian duties arise in anarchical societies, it would still be unable to explain why it is unjust for an anarchical society to remain anarchical, without incurring any liberal egalitarian duties. The political conception would thus still be
unable to criticize anarchical societies for being unjust, and the cosmopolitan conception would still be better at explaining the intuition that inegalitarian anarchical societies are unjust. Even if the argument could explain why there are no liberal egalitarian duties in anarchical societies, it would not address the issue that there are no liberal egalitarian duties in anarchical societies.

3.2 The Counterargument from Coercion

My argument against the political conception of liberal egalitarianism relies on the counterexample of anarchical societies, i.e. societies without any state coercion. One way to undermine my argument would be to argue that anarchical societies are practically impossible. Pacifist utopias would be entirely vulnerable to some warlord seizing power. And the coercion used by the warlord would require liberal egalitarian justification. Alternatively, the pacifists would give up their non-violence and create a state to keep the warlords at bay. But in this scenario too, the post-pacifists’ exercise of coercion would require liberal egalitarian justification. Non-coercive anarchies are utopias at best, but in all real societies there will be coercion in need of justification. Thus, there are no feasible counterexamples against the political conception of liberal egalitarianism.

I concede the point that some forms of coercion will exist in all feasible societies. However, I will question the premise that all forms of coercion need to be justified via a process of egalitarian redistribution. I will argue that even the defenders of the political conception implicitly deny this. As there are legitimate forms of coercion which do not give rise to duties of egalitarian redistribution, one might be able to create and sustain a more feasible society without giving rise to the political liberal egalitarian duties.

To see that all forms of coercion do not give rise to liberal egalitarian duties, consider the following case: The Syldavian army tries to invade Borduria, but using coercion, the Bordurian army fights the invaders back. Now, does the Bordurians’ use of coercion against the Syldavians imply that the Bordurians now owe redistributive duties to the worse off members of the Syldavian army? This seems like an absurd conclusion. However, we can use at least two different explanations to explain why no such redistributive duties arise. First off, the Syldavians are foreigners, and coercion against foreigners is not pervasive enough to give rise to egalitarian duties. Secondly, the Bordurians are acting in self-defense, and defensive
coercion does not need to be justified by redistribution. I will consider these explanations in turn.

Why would coercion against foreigners not give rise to egalitarian duties? According to the political conception, states must justify coercion with redistribution. And since states only coerce citizens, but not foreigners, states only need to redistribute to their citizens, and not to foreigners. However, when we scrutinize this latter premise, it turns out to be a gross oversimplification. States coerce foreigners all the time. The Syldavian army are foreigners who are coerced by the Bordurian state. Even non-invading tourists to Borduria must follow Bordurian law, thus being under coercion by the Bordurian state. The same goes for long term non-citizen residents. Then there is a large group of people who would want to migrate to Borduria, but who are coercively denied entry, and international businessmen who are coerced by Bordurian trade law. In this broader sense, the Bordurian state is effectively coercing everyone around the world.

A defender of the political conception could bite this bullet. One could combine the premise that states owe liberal egalitarian redistribution to everyone they coerce and the premise that Borduria coerces everyone around the world, to generate the conclusion that Borduria has redistributive duties to everyone around the world. But this conclusion is unattractive to defenders of the political conception. The political conception was supposed to explain why we owe liberal egalitarian duties to co-citizens but not to foreigners. It was supposed to contrast with the cosmopolitan conception of justice. But if a defender of the political conception bites the bullet their position would, for all practical purposes, collapse into the cosmopolitan position.

For the political conception to endure as an interesting theory, its defenders must consequently accept that not all forms of coercion give rise to liberal egalitarian duties. Only some qualified type of coercion does. What is this qualifier? It is true that the coercion exercised against citizens and long-term residents is much more pervasive than that exercised against foreigners. However, it is difficult to say exactly where to draw the line between the type of non-pervasive coercion, exercised against foreigners, which does not give rise to egalitarian duties, and the more pervasive coercion, exercised against citizens. However, since the non-pervasive form of coercion exercised against foreigners does not give rise to liberal egalitarian duties, individuals in an anarchical society would be able to exercise this non-pervasive form of coercion against each other, without incurring any liberal egalitarian duties.
Another way to express the same idea is this: According to the political conception sovereign states are allowed to use non-pervasive coercion against foreigners, without incurring any liberal egalitarian duties towards them. As anarchy can be compared to increasing the number of sovereign states to one per person, the rights and duties of each individual in an anarchical society will be analogous to the rights and duties of sovereign states. Each individual in an anarchical society would thus be allowed to use non-pervasive coercion against others without incurring any liberal egalitarian duties against them. Whether this allows for enough coercion to create a minarchy strong enough to be a feasible state depends on where we can draw the line between pervasive and non-pervasive coercion.

A second type of coercion which does not seem to need egalitarian justification is defensive coercion. Aggressive coercion seems to be pro tanto unjustified in a way that defensive coercion is not. While a warlord raiding a village is acting unjustly, the villagers does not seem to commit an act of injustice when defending their village against the warlord. It seems perverse to say that they must justify their defense from the warlord, by redistributing the resources to her which she would otherwise have plundered.

Interestingly, this intuition is the intuition underlying libertarianism. Thus, if we accept that only aggressive coercion needs to be justified with egalitarian duties, and libertarianism implies that we ought never to use aggressive coercion, it seems that there would be no duties of egalitarian justice in libertarian societies. Whether one could organize a stable libertarian society, only using coercion in defense, exceeds the scope of this paper. Anarcho-capitalists certainly argue that this is the case. However, if the political conception is the best version of liberal egalitarianism, my analysis indicates that liberal egalitarians cannot reject libertarianism on the basis that it is unequal or unjust, but only on the basis that it is unfeasible.

While I leave it an open question whether all defensive coercion is non-pervasive, it seems to me that some non-pervasive coercion is not defensive. For example, coercion exercised against temporary visiting tourists, and trade law regulating foreign businessmen, must be considered non-pervasive. However, they are not necessarily defensive. Thus, the question whether there are feasible counter-examples against the political conception of liberal egalitarianism hinges on the question of whether there are feasible societies which only use non-pervasive and/or non-aggressive coercion.
3.3 The Counterargument from Humanitarian Duties

Another way for the defender of the political conception of liberal egalitarianism to refute my argument would be to argue that anarchical and libertarian societies are unjust, not because they fail to satisfy civic, egalitarian duties, but because they fail to satisfy pre-political, humanitarian, sufficientarian duties.

According to the political conception our civic duties are derived from a more fundamental principle of autonomy. This principle of autonomy implies that we must justify any (pervasive and aggressive) coercion with civic redistributive duties. But the principle of autonomy also generates a general “humanitarian” duty to ensure that everyone is able to live a sufficiently autonomous life, e.g. by not being crippled by starvation or destitution. As this latter duty is independent of political affinities, we owe it to foreigners, but also to others in pre- or non-political societies. While anarchist or libertarian societies do not give rise to civic duties, they are still bound by humanitarian duties. And as they would fail to satisfy these humanitarian duties, they are unjust. The only way for a society to satisfy its humanitarian duties is to organize itself politically, and once it does, this gives rise to civic duties as well.

The strength of this argument will in part depend on where the threshold of sufficiency is set. Today many people around the world live in very poor circumstances. But the fact that the political conception defends the status quo of state sovereignty does not imply that it must defend our current levels of humanitarian relief. However, it seems to me that most defenders of the political conception, when writing about humanitarian duties, are mostly thinking of humanitarian relief (e.g. Blake 2001, 271). It is only supposed to bring people out of acute destitution into a situation where they can sustain themselves. I will not attempt to determine the correct threshold of sufficiency, but for the sake of argument we can use the World Bank’s international poverty line of $2/day as a guideline.

An anarchist could argue that this threshold would be met, even in an anarchic society. Current estimations are that extreme poverty will end globally around the years 2030-5, mostly due to increased international trade and increased productivity in developing countries. Anarchists could argue that these processes would be even stronger in the absence of states,

---

6 Aside from economic destitution, Blake also mentions oppressive coercion and social deprivation, such as caste hierarchies, as potential threats to autonomy (2001, 271-2). As libertarian and anarchical societies cannot coherently be coercively oppressive, and since they don’t seem to be inherently socially depriving, my argument will focus on economic deprivation. Or, in other words, I will restrict my discussion to anarchical and libertarian societies which are not e.g. caste societies.
taxes, and regulations, due to the increased economic benefits of free markets, migration and trade. The world’s abundance of resources would ensure that even catastrophe relief could be organized in a voluntary, non-coercive manner. Thus, anarchical societies would live up to their humanitarian duties (see e.g. Chartier 2012, 344-51). However, the non-anarchist might object that the lack of state organization and security would diminish economic wealth, and thus increase rather than reduce the need for humanitarian aid. In other words, this argument hinges on many empirical economical claims which exceed the scope of this paper.

However, aside from this empirical economic argument there is also a more principled explanation for how anarchical societies can satisfy humanitarian duties. According to the geolibertarian form of libertarianism, land belongs to everyone equally. Thus, those who use more than their fair share of land owe compensation to everyone else for using their fair share of the resource. Consequently, a geolibertarian society would essentially combine the non-aggression principle with a citizens’ dividend derived from a “single tax” on land.

Would this citizens’ dividend be high enough to meet our humanitarian duties? Of course, it is difficult to estimate the size of a potential citizens’ dividend, especially so when we consider how different a “single-tax” economy would be from our own. However, one 2014 calculation argued that such a partial redistribution of rent would yield a citizen’s dividend of some $5,000 per citizen per year if implemented in the US (Barnes 2014, 93-4). This is approximately the same amount as the American poverty line, and well above the international poverty line. This indicates that a geolibertarian society would live up to its humanitarian duties.

A defender of the political conception could problematize that both these arguments assume that anarchy would be global. What if anarchy would be local, as an island of non-governance in a sea of states? In this situation there would be less economic gain from free markets and free trade. And the geolibertarian citizens’ dividend would either be reserved for domestic members of the anarchic community only, thereby not aiding destitute foreigners, or thinned out on so many people world-wide that it wouldn’t help anyone out of destitution. There could consequently be many corrupt and despotic states around the world, the citizens of which remain in destitution.

To some extent the political conception itself seems vulnerable to the same complaint. A small, single, liberal egalitarian state, in a world of poor, corrupt, illiberal regimes would not be able to ensure that no one is destitute, regardless how much they spent on aid. According to
the argument, the resulting destitution would not only undermine the legitimacy of the illiberal societies, but of the liberal egalitarian society as well. And if the political conception of liberal egalitarianism and the anarchic system would both fail the same test, this test should not be used as an argument in favor of liberal egalitarianism and against anarchism.

There seems to be something strange with these arguments. If these corrupt and despotic states cause destitution, the fault seems to be with them, not with the anarchic or liberal egalitarian societies. It seems incorrect to claim that the anarchic or liberal egalitarian societies are illegitimate and should be removed. Rather, these corrupt and despotic regimes should be developed into liberal egalitarian states or anarchic societies. Thus, it seems fully reasonable to evaluate anarchy by how everyone would fare under a global anarchy, or how the domestic members of an anarchical society would fare in a local anarchy.

4. Summary and Conclusions

Political theorists disagree on the origin and scope of justice. According to the cosmopolitan conception of justice, duties of justice are pre-political and universal. But according to the political conception of justice, on the other hand, only humanitarian duties hold globally, while full duties of justice arise within and only within political communities. Whether one adopts the cosmopolitan or the political conception of justice will have a comprehensive impact on issues concerning global justice.

In this paper I have argued that a consequence of the political conception is that full duties of justice would not arise in anarchical societies. Statist defenders of the political conception are thus unable to criticize rival theories of justice, such as anarchic libertarianism, for being unjust. This is a shortcoming of a theory of justice, and speaks against the political conception, but can be used to defend anarchic libertarianism against statist critique. Reversely, if we have a strong intuition that duties of justice do apply in anarchic societies, this intuition will count against the political conception, and in favor of the cosmopolitan conception of justice.

I have illustrated my argument with the case of liberal egalitarianism, according to which our duty of justice is to make those who are worst off as well off as possible. While cosmopolitan liberal egalitarians hold that these duties are pre-political and should be applied globally,
egalitarian defenders of the political conception claim that they only arise and hold within states.

I have considered three possible objections against my argument. According to the first counterargument it is not mysterious that there are no egalitarian duties in the anarchical society, as ought implies can, and no one in the anarchical society can carry out the egalitarian duties. I have argued that it is doubtful that this is true, and even if it were true it would not address the underlying issue, that the political conception cannot critique competing political theories, or explain the intuition that inegalitarian anarchical societies are unjust.

A second counterargument is that there cannot be any societies without coercion. However, I argued that the political conception must hold that some forms of coercion do not give rise to egalitarian duties, namely defensive coercion and the non-pervasive sort of coercion states exert towards non-citizens. Therefore, the defender of the political conception must make the more controversial claim that there cannot be any societies without aggressive and pervasive coercion. While the empirical question whether such societies are possible falls outside of the scope of this paper, there certainly are libertarians and anarchists who believe that they are feasible.

Thirdly, I have considered the counterargument that anarchism cannot fulfil our pre-political humanitarian duties to ensure that no-one is destitute. Anarchists could answer that an anarchical society would have enough abundance to ensure that no-one is destitute through voluntary non-coercive means. But more importantly, I have argued that some forms of libertarianism, such as geolibertarianism, could reasonably be expected to meet humanitarian needs through a citizens’ dividend.

Interestingly, it seems to me that different versions of libertarianism are better at managing different counterarguments. Geolibertarianism is better suited to accommodate our humanitarian duties. But it would require a substantial apparatus to manage the “single tax” on land and the citizens’ dividend, making it more difficult to implement in a stateless society. Right libertarianism does not require any substantial distribution of resources and will thus be easier to implement in a stateless society, but less apt to accommodate our humanitarian duties. Thus, the argument hinges on whether there could be a right-libertarian society which satisfies our humanitarian duties, or whether one could organize a left-libertarian society without aggressive and pervasive state coercion.
References


